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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,924

04/08/2004

Edmund W. Brown

328.019

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07/20/2006

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EXAMINER

HERRERA, JENNIFER

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/620,924	Applicant(s) BROWN, EDMUND W.	
	Examiner Jennifer P. Herrera	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following minor informalities:
 - a. misprinted reference numbers, for example Figure 1, "328" is printed twice but one, as understood by the examiner, should be "328a",
 - b. placement of reference numbers, as understood by the examiner, are referring to the wrong part of the device, for example in Figure 1 "66c" is referring to the far right corner, when looking at the Figure 2, "66c" refers to the near left corner.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 213 and 224a.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "retracted position" of the upper arm must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

These informalities occur in several drawings, the applicant is advised to review every reference number placement and print to properly describe the drawings. Corrected

drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informality of reference numbers used for the disclosure of the structural element but incorrectly printed. For

example on page 13, line 25, the handle assembly is 200 and not "210" as shown in the description.

5. Incorporated reference of application 10/405396 has been reviewed by the examiner, and since the filing of this application, the reference application was issued for patent. It is advised to disclose the reference with the patent number.

Appropriate corrections are required.

Claim Objections

6. Claims 6, 14, and 25 objected to because of the following informality of the location of the "bracing element" with respect to the "load support member". The "bracing element" as understood by the examiner should be extending between the leg and "load supporting arm".

Appropriate correction is required.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Topper Industrial website in Jan. 2003 ("Topper"). Topper discloses a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson et al. (U.S. 5,328,192)("Thompson"). Topper discloses a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003. Topper does not teach a slidable handle assembly. Thompson discloses the slidable handle assembly, 28, connected to the support frame. Thompson also discloses a locking structure, 32 and 40, for the slidable handle assembly. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Thompson's slideable

handle assembly to Topper's device to allow the user movement based on the center of gravity of the article being transported. A wider article would require an extendable carrier to transport without having any tilting movement. The motivation to add Thompson's locking device for the slidable handle assembly would insure the user unwanted extension/retraction movement of the handle assembly.

9. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Bodine et al (U.S. 5,462,298)("Bodine"). Topper discloses a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003.

a. Regarding claim 8, Topper does not disclose a bed locking structure. Bodine discloses bed locking structure, 62, positioned on the support frame. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's locking structure to Topper's device to insure the user a secure and stable platform during transportation. A bed with the capability to rotate without a lock could be hazardous to the user if the cargo should fall.

b. Regarding claim 9, Topper does not disclose a retractable pin and locking plate. Bodine discloses a pin, 64, and plate, 65, in column 5. Therefore it

would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's pin and plate to Topper's device to insure an easy lock system regardless of the force applied to the rotating bed.

10. Claims 3, 4, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view Thompson as applied respectively to claims 2 and 10, and further in view of Foss et al. (U.S. 4,637,626) ("Foss"). Topper and Thompson do not disclose a lower and upper arm. Foss discloses a lower arm, 275, and upper arm, 280, pivotally connected. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Foss' arms to Thompson's slidable handle assembly and Topper's tugger cart to broaden the capability of the handle. The ability of retracting the arm would minimize spaced required for the cart in any scenario, for example storing the cart while not in use.

11. Claims 5, 6, 7, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Foss as applied respectively to claims 3, 4, 11, and 12, and further in view of Blake et al. (U.S. 4,360,211) ("Blake"). Topper, Thompson, and Foss do not disclose a load support member, bracing element, and load support arm.

a. Regarding claims 5 and 13, Blake discloses the load support arm, 18.

- b. Regarding claim 6 and 14, Blake discloses the bracing element, 31.
- c. Regarding claim 7 and 15, Blake discloses the load support arm, 19, and the construction of the 3 parts of Blake's teachings in Figure 2.

12. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Blake's bracing element, load support member and arm to Foss' lower arm, Thompson's slidable legs, and Topper's tugger cart to stabilize the placement and support of the cargo during shipment.

13. Claims 17, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson, and further in view of Bodine. Topper discloses a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003. Topper does not teach a slidable handle assembly. Thompson discloses the slidable handle assembly, 28, connected to the support frame. Thompson also discloses a locking structure, 32 and 40, for the slidable handle assembly. Topper and Thompson do not disclose the locking structure for the bed. Bodine discloses the bed locking structure, 62, comprising of a retractable pin, 64, and plate, 65. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's bed locking structure to Topper's bed to insure a stable platform for the cargo. The motivation to

add Thompson's slidable handle and lock to Topper's tugger cart to allow a broad usage of the cart regardless of cargo size.

14. Claims 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Bodine as applied respectively to 18 and 20, and further in view of Hallowell et al (U.S. 2,712,452) ("Hallowell"). Topper, Thompson, and Bodine do not disclose a plate with a horizontal base with ramp plates. Hallowell discloses the plate, 8, as seen in Figure 14. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Bodine's locking plate with Hallowell's plate to allow a secure rigid attachment to the base. Less moving parts insure a cleaner and safer operation for the user.

15. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Bodine as applied to claims 22 and 23, and further in view of Foss. Topper, Thompson, and Bodine do not disclose a lower arm and upper arm. Foss discloses the lower arm, 275, and upper arm, 280, pivotally connected. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Foss' handle configuration to Thompson's handle assembly to minimize the space required for Topper's tugger cart.

16. Claims 24, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Bodine in view of Foss as applied to claim 22, and further in view of Blake. Topper, Thompson, Bodine, and Foss do not disclose a load support member, bracing element, and load support. Blake discloses the load support arm, 19, load support member, 18, and bracing element, 31, in Figure 2.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Blake's load support arm and member, and bracing element to Thompson's slidable leg, and Topper's tugger cart to stabilize any possible shifting of the cargo during transportation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer P. Herrera whose telephone number is (571) 272-6269. The examiner can normally be reached on 0830-1700 hrs Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

17.JPH

18.6/29/06



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